

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF FLORIDA
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In re)	
)	
ADMINISTRATIVE ORDER)	Amended
PRESCRIBING PROCEDURES FOR)	Administrative Order
MORTGAGE MODIFICATION)	No. 15-001

**ADMINISTRATIVE ORDER PRESCRIBING PROCEDURES FOR
MORTGAGE MODIFICATION MEDIATION (EFFECTIVE 10/1/2015)**

Effective September 22, 2014, the Bankruptcy Court for the Northern District of Florida adopted its mortgage modification mediation (“MMM”) procedures. Finding it appropriate and necessary to modify the MMM procedures, it is

ORDERED:

1. Effective upon entry of this Order, all parties participating in the MMM process in the Northern District of Florida shall comply with the amended and modified MMM procedures set forth below.
2. MMM is available in all cases and for any type of real property.
3. A motion seeking MMM shall include, **on the first page**, a complete address of the property as to which the mortgage may be modified and the last four

digits of the mortgage loan number(s). If this information is not included, the motion will be denied without prejudice or abated until an amended motion containing the required information is filed.

4. No negative notice is required for a motion seeking MMM. Lenders may seek reconsideration for cause within 14 days of entry of an order granting an MMM Motion.

5. A motion seeking MMM shall be filed within 90 days of the filing or conversion of the case. The Court will prepare and enter an order directing MMM on timely filed motions. If the MMM motion is not filed timely, the Court may set a hearing and will grant the request only if good cause is demonstrated for the delay.

6. The parties shall conclude the MMM process within 150 days of the filing or conversion of the case unless that time is enlarged by written consent on the Portal (described below), by stipulation of the parties, or by Court order.

7. Parties shall have 14 days after the entry of the order directing MMM to jointly select a Mediator qualified pursuant to Amended Standing Order No. 20. If the parties cannot agree on a Mediator, the Debtor shall select a Mediator and the lender may file an objection within seven (7) days. If a timely objection to a Mediator is filed, the Chapter 12 or 13 Trustee or the Clerk of Court in a Chapter 7 or 11 case will select the Mediator from the Approved Mediator Registry on a random, rotating basis.

8. Debtor and Lender shall each pay \$250 directly to the Mediator within 7 days of designating the Mediator. Parties shall also equally pay the Mediator for any

additional hourly fees incurred from MMM conferences that extend beyond two one-hour sessions. The Mediator shall file a report within seven (7) days of each mediation conference indicating the current status of the mediation. If a Mediator fails to comply with this reporting requirement, upon motion, notice, and hearing, the Court may order a Mediator to disgorge mediation fees and the Mediator's removal from the Approved Mediator Registry.

9. Unless otherwise ordered, parties shall use a secure portal (the “Portal”) for submission of documents to initiate the MMM and shall be governed by the Order Granting Motion for Referral to Mortgage Modification Mediation entered in each individual case. The Portal Providers approved by the Court for document submission, and information about each Portal’s document preparation software, are:

a. Default Mitigation Management, LLC (“DMM”) (<https://www.dclmwp.com/Home>). Optional document Preparation Software for the DMM Portal is available through docUmods™; a fee-for-service online program (<https://www.documods.com/Documods/Site>). Debtors choosing to use docUmods™ will pay the required user fee directly to the vendor.

and

b. HopeLoan Group, LLC (“HopeLoan”) (<https://hlp.org/>).

Document Preparation Software for the HopeLoan Portal is located inside the

HopeLoan Portal.

The Debtor will clearly identify which Portal provider the Debtor will be using for the MMM. If the use of the Portal will create an undue hardship, the Debtor shall file a separate Motion for Waiver of MMM Portal Requirement containing a detailed explanation of the undue hardship.

10. The parties may communicate outside the Portal orally, but all written communication shall occur through the Portal, unless otherwise ordered.

11. Parties may submit a proposed order simultaneously with a motion seeking approval of a *temporary* MMM agreement; such orders shall be considered without need for notice or a hearing.

12. Using the Court's Negative Notice procedures, Debtor shall file a motion to approve a *permanent* MMM agreement. The motion must contain the agreed terms of the modification, the new mortgage payments, and the lender's mailing address.

13. Orders approving permanent MMM agreements (i) shall be in a format that can be recorded in the official records of the county where the property is located, and (ii) should be recorded by the Debtor within 90 days of the entry of the order, unless the parties agree otherwise.

14. In all cases, Debtors seeking MMM shall provide adequate protection to the lenders. For *homestead* properties, Debtors shall pay the lesser of (1) 31% of their gross disposable income (after deducting homeowner association fees), or (2) the normal monthly contractual mortgage payment. For *non-homestead* income producing property, Debtors shall pay 75% of the gross rental income generated by the property. In Chapter 12 and 13 cases, Debtors shall make the adequate protection payments to the Chapter 12 or 13 Trustee, who shall hold the funds pending either further order of the Court, a Notice of Adequate Protection filed by the Debtor, or a joint stipulation of the parties as to distribution. In all other Chapters, Debtors shall make the adequate protection payments directly to the lender with no requirement for Court approval or modification of the automatic stay.

15. Unless the parties agree in writing to the contrary, MMM payments made during the MMM process will be applied in accordance with the applicable loan documents and non-bankruptcy law.

16. Debtors who seek to participate in MMM must have paid all current and prior bankruptcy filing fee(s) in full prior to filing a Motion seeking MMM.

17. The referral of a matter to MMM does not relieve the parties from complying with other Orders, applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or Local Rules. Entry of an Order authorizing MMM shall not stay the Debtor's bankruptcy case. If the Debtor's case is otherwise in a posture for administrative closing, the case shall remain open during the pendency of

MMM, unless otherwise ordered by the Court. The Clerk may enter a discharge in the ordinary course of a case unless entry of the discharge is delayed pursuant to a motion made by the Debtor or the lender and an order of the Court.

18. MMM is deemed concluded upon the earliest of: (a) the filing of a final report by the Mediator, (b) an order approving a permanent mortgage modification, or (c) other order of the Court indicating the MMM concluded. Upon conclusion of the MMM in a Chapter 12 or 13, any payments not yet disbursed to the lender by the Chapter 12 or 13 Trustee shall be disbursed:

a. if MMM resulted in a permanent mortgage modification agreement, which may include the lender's decision to decline receipt of additional funds, then as specifically agreed to by the Debtor and lender.

b. if MMM did not result in a permanent mortgage modification agreement, then:

i. to the lender to be applied in accordance with the trial modification agreement, if any; otherwise in accordance with the applicable loan documents and non-bankruptcy law, or

ii. if the lender affirmatively rejects the undisbursed funds, as provided by the Chapter 12 or 13 Plan or Confirmation Order.

19. Notwithstanding the foregoing, if a Chapter 12 or 13 case is dismissed or converted to a Chapter 7 or 11 case, the Chapter 12 or 13 Trustee shall disburse any funds remaining in the Trustee's possession to the Debtor; if the Debtor is represented

by an attorney, the Trustee shall mail the funds to the Debtor in care of the Debtor's attorney.

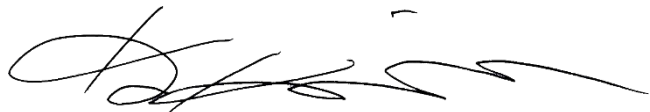
20. In Chapter 11, 12 and 13 cases, the Court may confirm a plan of reorganization subject to pending MMM.

21. The MMM procedures do not affect amounts of allowed attorney fees for Debtor and creditor attorneys participating in the MMM program. In the event the parties reach a final resolution, or if no agreement has been reached, attorneys for Debtors shall be permitted to charge an attorney's fee not to exceed \$2,500 and costs not to exceed \$100 for MMM, or such other amounts as may be set forth in any Administrative Order on attorneys' fees in effect upon conclusion of MMM, subject to the compensation requirements for the chapter under which the case is filed. The MMM attorney's fee shall include: (a) filing of the MMM Motion and submission of the Order authorizing MMM; (b) preparation of all forms and providing all information required for mediation; (c) filing of other required pleadings and preparation of proposed orders and settlement papers, as applicable; (d) communicating with the lender or its attorney and the Mediator, via the Portal and otherwise as appropriate; (e) attendance at all MMM conferences and Court hearings; (f) review of all modified loan documents; and (g) preparation of trial and final MMM motions and Orders.

22. If the lender and the Debtor fail to reach a settlement, then no later than 14 calendar days after the Mediator's Final Report is filed, in a Chapter 12 or 13 case the Debtor will amend or modify the plan to (a) conform to the lender's Proof of Claim

(if the lender has filed a Proof of Claim), without limiting the Debtor's right to object to the claim or proceed with a motion to value; (b) provide that the real property will be "treated outside the plan"; or (c) provide that the real property will be surrendered. If the property is surrendered or "treated outside the plan," the lender will be entitled to *in rem* stay relief to pursue available state court remedies against the property. Notwithstanding the foregoing, lender may file a motion to confirm that the automatic stay is not in effect as to the real property using the Court's Negative Notice procedures.

DONE AND ORDERED ON: Wednesday, July 25, 2018.



KAREN K. SPECIE
United States Bankruptcy Judge